

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

PART TWO

OWN FUNDS

TITLE III

QUALIFYING HOLDINGS OUTSIDE THE FINANCIAL SECTOR

Article 89

Risk weighting and prohibition of qualifying holdings outside the financial sector

1 A qualifying holding, the amount of which exceeds 15 % of the eligible capital of the institution, in an undertaking which is not one of the following shall be subject to the provisions laid down in paragraph 3:

- a a financial sector entity;
- b an undertaking, that is not a financial sector entity, carrying on activities which the competent authority considers to be any of the following:
 - (i) a direct extension of banking;
 - (ii) ancillary to banking;
 - (iii) leasing, factoring, the management of unit trusts, the management of data processing services or any other similar activity.

2 The total amount of the qualifying holdings of an institution in undertakings other than those referred to in points (a) and (b) of paragraph 1 that exceeds 60 % of its eligible capital shall be subject to the provisions laid down in paragraph 3.

3 Competent authorities shall apply the requirements laid down in point (a) or (b) to qualifying holdings of institutions referred to in paragraphs 1 and 2:

- a for the purpose of calculating the capital requirement in accordance with Part Three, institutions shall apply a risk weight of 1 250 % to the greater of the following:
 - (i) the amount of qualifying holdings referred to in paragraph 1 in excess of 15 % of eligible capital;
 - (ii) the total amount of qualifying holdings referred to in paragraph 2 that exceed 60 % of the eligible capital of the institution;
- b the competent authorities shall prohibit institutions from having qualifying holdings referred to in paragraphs 1 and 2 the amount of which exceeds the percentages of eligible capital laid down in those paragraphs.

Competent authorities shall publish their choice of (a) or (b).

4 For the purposes of point (b) of paragraph 1, EBA shall issue guidelines specifying the following concepts:

- a activities that are a direct extension of banking;
- b activities ancillary to banking;
- c similar activities.

Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.

Article 90

Alternative to 1 250 % risk weight

As an alternative to applying a 1 250 % risk weight to the amounts in excess of the limits specified in Article 89(1) and (2), institutions may deduct those amounts from Common Equity Tier 1 items in accordance with point (k) of Article 36(1).

Article 91

Exceptions

1 Shares of undertakings not referred to in points (a) and (b) of Article 89(1) shall not be included in calculating the eligible capital limits specified in that Article where any of the following conditions is met:

- a those shares are held temporarily during a financial assistance operation as referred to in Article 79;
- b the holding of those shares is an underwriting position held for five working days or fewer;
- c those shares are held in the own name of the institution and on behalf of others.

2 Shares which are not financial fixed assets as referred to in Article 35(2) of Directive 86/635/EEC shall not be included in the calculation specified in Article 89.